107.01 LAWS TO BE OBSERVED

The Contractor shall observe and comply with all applicable laws, ordinances, regulations, orders, and decrees.

Construction Safety

Occupational Safety and Health Act (OSHA) and Mine Safety and Health Act (MSHA) are federal laws regulating safety practices in most industries and work activities throughout the United States. Because OSHA and MSHA are federal laws, they are made part of the Standard Specifications by reference in Subsection 107.01.

As with any other specification, state construction personnel must see that Contractors adhere to OSHA/MSHA requirements, even though the primary responsibility for enforcement has been placed on the Federal Department of Labor. All Contractors must comply with OSHA/MSHA regulations applicable to their contracts and advise all subcontractors of the required safety requirements to which they are also subject. Each Residency should have copies of the informational guides on OSHA and MSHA for ready reference.

Upon award of the contract and prior to the preconstruction conference, the Resident/Regional and Project Engineers are encouraged to study the plans, specifications, and other contract documents to identify specific safety aspects that should be discussed at the preconstruction conference.

Safety posters that should be placed on the bulletin board at the job site are:

1. Job Safety and Health Protection. (Exhibit 107.01-1)
2. Emergency Phone Numbers. (Exhibit 107.01-2)

Any questions project personnel have concerning OSHA/MSHA compliance should first be referred to the District EEO/Safety/Training Coordinator, whose duty is to assist project personnel in this area and provide on-the-job training of project personnel.

Additional assistance may be requested of Construction personnel and the headquarters' Employee Safety/Risk Manager if the need warrants.

Preconstruction Conference and Preoperational Meetings

Prior to starting work at the site, the Contractor is requested to confer with representatives of the Division of Highways to provide for the integration of safety into the project during the planning stages and to arrive at a clear understanding on how safety issues will be handled. The safety aspect can be a part of the general preconstruction conference; however, sufficient time must be allotted to cover aspects of safety integration, including proposals for handling specific hazards.

A preoperational meeting may allow a more thorough discussion of safety since the meeting will focus more on the "nuts and bolts" aspects of a particular operation. Any safety concerns can be discussed in detail. The suggested topics in Exhibit 107.01-3 are common safety concerns that should be discussed during preconstruction and preoperational meetings. These topics are intended only as reminders of applicable references to important safety regulations and are by no means complete. For more detail, please refer to the appropriate Federal Register reference.

job safety and health protection

The Occupational Safety and Health Act of 1970 provides job safety and health protection for workers through the promotion of safe and healthful working conditions throughout the Nation. Requirements of the Act include the following:

Employers: **Each employer shall furnish to each of his employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to his employees; and shall comply with occupational safety and health standards issued under the Act.**

Employees: **Each employee shall comply with all occupational safety and health standards, rules, regulations and orders issued under the Act that apply to his own actions and conduct on the job.**

The Occupational Safety and Health Administration (OSHA) of the Department of Labor has the primary responsibility for administering the Act. OSHA issues occupational safety and health standards, and its Compliance Safety and Health Officers conduct jobsite inspections to ensure compliance with the Act.

Inspection: The Act requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the OSHA inspector for the purpose of aiding the inspection.

Where there is no authorized employee representative, the OSHA Compliance Officer must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

Complaint: Employees or their representatives have the right to file a complaint with the nearest OSHA office requesting an inspection if they believe unsafe or unhealthful conditions exist in their workplace. OSHA will withhold, on request, names of employees complaining.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or otherwise exercising their rights under the Act.

An employee who believes he has been discriminated against may file a complaint with the nearest OSHA office within 30 days of the alleged discrimination.

Citation: If upon inspection OSHA believes an employer has violated the Act, a citation alleging such violations will be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected.

The OSHA citation must be prominently displayed at or near the place of alleged violation for three days, or until it is corrected, whichever is later, to warn employees of dangers that may exist there.

Proposed Penalty: The Act provides for mandatory penalties against employers of up to $1,000 for each serious violation and for optional penalties of up to $1,000 for each nonserious violation. Penalties of up to $1,000 per day may be proposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the Act may be assessed penalties of up to $10,000 for each such violation.

Criminal penalties are also provided for in the Act. Any willful violation resulting in death of an employee, upon conviction, is punishable by a fine of not more than $10,000 or by imprisonment for not more that six months, or by both. Conviction of an employer after a first conviction doubles these maximum penalties.

Voluntary Activity: While providing penalties for violations, the Act also encourages efforts by labor and management, before an OSHA inspection, to reduce injuries and illnesses arising out of employment.

The Department of Labor encourages employers and employees to reduce workplace hazards voluntarily and to develop and improve safety and health programs in all workplaces and industries.

Such cooperative action would initially focus on the identification and elimination of hazards that could cause death, injury, or illness to employees and supervisors. There are many public and private organizations that can provide information and assistance in this effort, if requested.

More Information: **Additional information and copies of the Act, specific OSHA safety and health standards, and other applicable regulations may be obtained from your employer or from the nearest OSHA Regional Office in the following locations:**

Atlanta, Georgia
Boston, Massachusetts
Chicago, Illinois
Dallas, Texas
Denver, Colorado
Kansas City, Missouri
New York, New York
Philadelphia, Pennsylvania
San Francisco, California
Seattle, Washington

Telephone numbers for these offices, and additional Area Office locations, are listed in the telephone directory under the United States Department of Labor in the United States Government listing.

Washington, D.C.
1977
OSHA 2203

Ray Marshall
Secretary of Labor

U. S. Department of Labor
Occupational Safety and Health Administration

Exhibit 107.01-2

EMERGENCY PHONE NUMBERS

Physician _____ **or** _____

Hospital _____ **or** _____

Ambulance _____ **or** _____

Fire Department _____ **or** _____

Police _____ **or** _____

Post in a conspicuous location, in accordance with OSHA Reg.1926.50

Exhibit 107.01-3

SAFETY REQUIREMENTS CHECKLIST	
EARTHWORK AND GRADING OPERATIONS	
Safety Requirements	Code of Federal Regulations
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
OXYGEN AND ACETYLENE TANKS - Upright and Properly Secured and Stored	29 CFR 1926.350
CRANE – Inspection Records, Proximity to Power Lines, Capacity Chart, Boom Angle	29 CFR 1926.550
EQUIPMENT UNATTENDED - Parked Overnight Away From Travelway, Attached Equipment Lowered	29 CFR 1926.600
EQUIPMENT SAFETY DEVICES – Seat belts, Rollover Protection, Back-Up Alarms, Bed Stops on All Dump Trucks	29 CFR 1926.601-.602
EXCAVATION – Repose Angle, Shoring Banks Over 5' High	29 CFR 1926.650-.653
TRUCKS- Haul Legal Weight and Avoid Spillage	Idaho Code
CRUSHER AND AGGREGATE TREATMENT PLANTS	
SAFETY PLAN – OSHA Posters, Emergency Numbers, MSHA Placards	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
PLANT – Start-Up Alarm Signal	29 CFR 1926.555
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
OXYGEN AND ACETYLENE TANKS - Upright and Properly Secured and Stored	29 CFR 1926.350
LADDERS - Adequate and Properly Secured	29 CFR 1926.450-.452
CONVEYORS - Belt and Drive Guards in Place	29 CFR 1926.555
EXCAVATION – Safe Repose Angle in Pit	29 CFR 1926.651
TRUCKS- Haul Legal Weight and Avoid Spillage	Idaho Code

ELECTRICAL SERVICE - Ground Fault Circuit Interrupter (GFCI)	29 CFR 1926.404
POWER CORDS AND CONNECTIONS - Proper and Well Located	29 CFR 1926.400-.432
TRUCKS AND LOADERS – Back-Up Alarms, Bed Stops and Other Equipment Safety Devices	29 CFR 1926.600-.606
Review Drilling and Blasting Safety if Quarry Operations are Involved	
DRILLING AND BLASTING	
SAFETY PLAN – OSHA Posters, Emergency Numbers, MSHA Placards	29 CFR 1926.20-24
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
AIR LINE CONNECTIONS - Securely Fastened and Equipped With Safety Chains	29 CFR 1926.302
WARNING SIGNS - Posted Properly Marking Work Area	29 CFR 1926.900
EXPLOSIVE STORAGE – Magazine Requirements	29 CFR 1926.904
CHARGE INITIATION – Safety Fuse, Detonating Cord, Misfires	29 CFR 1926.905-.911
BLASTING SIGNALS – Signal Sequence, Signs, Flaggers	29 CFR 1926.909
BLASTER QUALIFICATION – Training, Experience, Knowledge	29 CFR 1926.901
EXCAVATION - Angle of Repose	29 CFR 1926.651
TRANSPORTING EXPLOSIVES – Vehicle Placards	29 CFR 1926.902
SECURITY - Authorized Personnel, Inventories, Blast Mats, Warning Signals	29 CFR 1926.900
MSHA TRAINING - Quarry and Pit Operations—Requires Contractor to Conduct and Document Hazards Recognition Training	
SEAL COATING AND PAVING	
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes, Face, Respirators	29 CFR 1926.100-.107
FUEL STORAGE TANKS - Fire Extinguishers, 20 ABC on Distributors, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
TRUCKS AND LOADERS – Back-Up Alarms, Truck Bed Stops	29 CFR 1926.600-.601

STRUCTURES (BRIDGES, OVERPASSES, ETC.)	
SAFETY PLAN – OSHA Posters, Emergency Numbers	29 CFR 1926.20-24
HOUSEKEEPING – Storage and Disposal of Scrap and Debris	29 CFR 1926.25
PERSONAL PROTECTION - Hard Hats, Hearing, Eyes and Face Protection, Safety Nets, Lifelines	29 CFR 1926.100-.107
FUEL STORAGE TANKS – Diked, Placarded, Fire Extinguishers, No Smoking Signs	29 CFR 1926.150-.155
TRAFFIC CONTROL PLAN – Certified Flagpersons and All Traffic Control Devices per MUTCD and NCHRP-350	29 CFR 1926.200-.203
MATERIALS HANDLING AND STORAGE – Stable Platforms, Stacking Heights	29 CFR 1926.250
POWER TOOL CONDITION – Guards, Grounding	29 CFR 1926.300-.305
OXYGEN AND ACETYLENE TANKS – Upright, Properly Secured and Stored	29 CFR 1926.350
GFCI – On Electrical Service to Tools	20 CFR 1926.404
POWER CORDS AND CONNECTIONS – Proper and Well Located	29 CFR 1926.404
LADDERS AND SCAFFOLDS – Length, Side Rail Support, Toe Boards, Safe Access	29 CFR 1926.450-452
RAILING ON STAIRWAY OVER 4 RISERS – Smooth Top Rail, Toe Boards	29 CFR 1926.500
CRANE – Capacity Chart, Inspection Record Available, Proximity to Power Lines, Boom Angle Indicator	29 CFR 1926.550
EQUIPMENT – Unattended, Reverse Alarms, Parking Overnight	29 CFR 1926.600-606
EXCAVATION – Walkways Left Clear, Repose Angle, Shoring Requirements, Banks Over 5' (1.5 m) High	29 CFR 1926.650-653
FORMS, SHORING, SAFETY BELTS – Working Over Protruding Steel, Stripped Forms and Shoring Removed from Work Area	29 CFR 1926.700-703

Monitoring Construction Operations for Safety

Staffing and Preparation

The Resident/Regional, with the aid of other project personnel, shall continually monitor all phases of work to note and take action on any observed and reported violations of the safety provisions. To the extent practicable, copies of current safety standards and regulations should be readily available at the project site.

On-Site Monitoring

The degree of hazard on a job site depends upon the nature of the work environment and the way in which the work is performed. To minimize the likelihood of accidents, constant vigilance is essential. Project personnel, in connection with their everyday duties, must give constant attention to safety in the performance of the construction work.

Safety Inspections

The Idaho Transportation Department shall monitor compliance with all laws, rules, and regulations as well as the specifications and provisions of the contract.

Contractor employee safety and worksite safety are the direct responsibility of the Contractor and the subcontractors. Safety violations involving construction Contractor workers, suppliers, and delivery personnel when on ITD projects or associated production facilities will be handled in accordance with requirements in this section, Subsections 107.01 and 107.16 of the ITD Standard Specifications, and required provisions for federal-aid construction contracts part VIII.

Representatives of the Federal Highway Administration or department headquarters' staff may make safety inspections of the Contractor's operation from time to time. In addition, compliance officers of the federal and state safety enforcement agencies may make inspections. FHWA and department personnel should cooperate fully with officials of other agencies in conducting inspections of construction projects.

Any questions project personnel have concerning OSHA/MSHA compliance should first be referred to the District EEO/Safety/Training Coordinator, whose duty is to assist project personnel in this area and provide on-the-job training of project personnel.

Additional assistance may be requested of Construction personnel and the headquarters' Employee Safety/Risk Manager if the need warrants.

General Safety and Health Provisions

The Contractor must initiate and maintain an accident prevention program. The program must provide for frequent and regular inspections of the job sites, materials, and equipment that are made by competent persons designated by the Contractor.

The use of any machinery, tools, materials, or equipment that cannot meet the safety standards applicable to these items is prohibited. Unsafe items must be identified as unsafe by tagging, or made inoperable by locking the controls, or removed from the place of operations.

Only those employees qualified by training or experience or employees training under proper supervision are permitted to operate equipment and machinery.

Violations

Violations of safety regulations may be minor in nature or they may be serious. Judgment must be exercised in interpreting the safety standards and determining the degree of hazard. Most deficiencies are minor and notifying the Contractor orally may be all that is necessary to remedy the violation. Oral or written notices to the Contractor should specify the safety regulation that is not being fulfilled. ***Project personnel should not instruct a Contractor on how to correct a deficiency.***

Minor violations can be verbally reported to the person in charge and/or the project engineer or project inspector. Violations that are adequately and quickly resolved and do not involve injuries or near misses do not require written reports unless the violation is frequent or the corrective action taken is not adequate.

Unsafe conditions or acts that jeopardize the safety of employees or the public must be reported to the supervisor and/or project inspector on the ITD-2713, Safety Inspection Report. Copies should be given to the supervisor on site and distributed to others as appropriate. Photographs including the violation should be taken whenever practicable. A copy of any written notice of violation should be sent to the District EE/Safety/Training Coordinator.

In the event that a condition of imminent danger exists the ITD representative will:

- Issue an immediate oral directive to cease work and correct the deficiency.
- If the deficiency is not fully and promptly corrected, the ITD Project Engineer will issue a written order stopping all or part of the work as necessary until the hazard is eliminated (per subsection 108.05). If all or part of the work is suspended to get compliance, an ITD-2242, Status of Work, must be completed stating the reason for suspension in the appropriate space.

If the deficiency is not corrected immediately, or repeated violations occur, take a photograph of the violation, provide written notice to the Contractor, and report the violation to your immediate supervisor, the District EEO/Safety/Training Coordinator, and the appropriate regulatory agency. The Occupational Safety and Health Administration (OSHA) has purview over most industrial work and the Mine Safety and Health Administration (MSHA) has purview on mining operations.

Safety violations involving construction Contractor workers, suppliers, and delivery personnel when on ITD projects or associated production facilities that involve a written notice will be kept on file with other project records. The District EEO/Safety/Training Coordinator will also maintain a file of all safety violations and their corrective action(s) along with all associated documentation that can be inspected as part of any project or safety review.

The District Engineer is responsible for ensuring that corrective action on reported violations occurs in a timely and appropriate manner.

Variations from Safety and Health Standards

In case of substantial engineering or other practical difficulties, a Contractor or subcontractor may request a variance from any of the published safety and health standards. Such requests must be fully justified in writing and submitted to the U.S. Department of Labor. The procedure for OSHA is set forth in Title 29, Code of Federal Regulations, Part 1926. The procedure for MSHA is set forth in Title 30, Code of Federal Regulations, Part 57.24. Approval may be granted upon a finding that the variance will provide safety measures that are as safe as those provided in the published standard.

Accidents Involving State Employees

Additional information on State employee safety issues and accidents is contained in the Employee Safety/Risk Management Manual. Coordinate all accident reporting with the District EEO/Safety/Training Coordinator.

107.02 PERMITS AND LICENSES

Tax Assessments by Counties – Equipment

Although each Contractor who performs work for the State must pay promptly when due all taxes, etc., questions often arise concerning assessments on equipment. Tax assessments are **not the only tax responsibility**, but one area of considerable interest to the Contractor. **The following is for information only:**

The Division of Highways and its personnel are not required to initiate any action on equipment assessments. The Contractor should be referred to each County Assessor where work is being performed. (Idaho Code, 63-1405, provides the basis for the County Assessor's actions.) The Roadway Design section notifies the counties that a Contractor will be working in their jurisdiction at the time the contract is awarded.

The Contractor is obligated to pay taxes on the assessed evaluation of the equipment domiciled in each county of the State, whether it is working or not. **The Contractor is required to contact the County Assessor of each county where the equipment is at and address the tax liability.**

Each assessor uses forms that the Contractor is asked to complete. The forms call for a listing of the Contractor’s equipment by serial number, its cost and age, and time in county or counties of Idaho. Standard tables are used by the assessor to arrive at equitable assessment values and costs.

The department's position is to advise the Contractor of the tax obligation and to indicate the liability for taxes, license fees, and assessments. The department is obligated to withhold taxes due from Contractor's payment while working on our projects.

Upon receipt of the District Engineer's acceptance letter, the Construction section notifies all county and state taxing units and advises the taxing unit that they have fifteen (15) days to inform Financial Services of any tax obligations that are due. Final payment cannot be made until authorized by the taxing units. No further action is required by the District.

107.06 TRAFFIC CONTROL DEVICES

The Resident/Regional Engineer, on projects where public traffic is involved, shall designate one qualified individual who will normally be on the project every day to be responsible for traffic control and traffic control devices. The Contractor's certified worksite traffic control supervisor should work with the department's individual so all traffic control devices are reviewed on at least a daily basis to assure that changes in operations are reflected by appropriate changes in signing and other traffic control devices.

The person designated for traffic control and traffic control devices should be trained and have available for reference, the current Manual on Uniform Traffic Control Devices.

107.09 FOREST PROTECTION

Department personnel must be aware of and meet our commitments to the Forest Service on any projects that fall within National Forest boundaries.

The Chief Engineer signed a Memorandum of Understanding with the Forest Service in December of 1982 and amended it in May 1985. Part of this memorandum concerned construction activities within National Forest land as follows:

Construction

The State will:

a. Invite the Forest Supervisor, or a representative, to attend the preconstruction conference with the successful bidder.

b. Control construction under State contracts to assure work is in accordance with approved plans and agreements.

c. Have the District Engineer contact the Forest Supervisor for agreement prior to starting any work under changed conditions that develop, prior to or during construction, which alter the land-use aspect of approved plans.

d. Request the Forest Supervisor, or a representative, to participate in final project inspections.

The Forest Service will:

a. Consult only with the District Engineer, or an on-the-job representative, on matters pertaining to project construction.

b. Issue permits directly to the Contractor for burning, campsite locations, and water sources after agreement with the designated State representative. Copies of all permits issued will be furnished to the State.

c. Participate in final project inspections and make recommendations to the State on matters related to Forest Service responsibilities for land and resource management.

107.10 RESPONSIBILITY FOR DAMAGE

Public Liability and Property Damage

No work shall proceed until the contract is signed and the required Public Liability and Property Damage insurance is in force. (See Exhibit 107.10-1 for insurance procedures.)

Supplemental insurance (such as railroad insurance, XCU insurance, etc.) must be in force prior to starting and through the duration of the applicable portions of the project. The Resident/Regional shall see that the Contractor has submitted a copy of the insurance certificate before allowing the project to start.

Thirty (30) days prior to the expiration of a policy, the District should notify the Contractor to obtain an extension. If the Contractor does not submit an extension, the work must be suspended upon expiration of insurance.

In the event a motorist or property owner claims damage alleged to be caused by the Contractor or the Contractor's action, ITD personnel should, on request, advise the damaged party how to file a claim against the Contractor's insurance. The claimant should be given the name and address of the Contractor and the insurer. The claimant may also be advised that the alleged damage suffered should be fully described, as well as all pertinent facts known to the claimant that had a bearing on the damage (such as location, time, roadway conditions, equipment involved, names of personnel, traffic control, etc.) Generally, the more complete the information is that the claimant provides, the better chance the claimant has for recovery if the Contractor is, in fact, liable. (See "Documenting Motor Vehicle Accident Information" on page 13 for motor vehicle accidents. See subsection 107.19 concerning claims against the State.)

Railroad Protective Liability Insurance

A railroad protective liability policy is required by each prime Contractor who performs work on highway projects in which a railroad is involved. The requirements are different for different railroads and are spelled out in the contract special provisions. (See Exhibit 107.10-1.)

The Contractor must furnish and keep current, for the duration of that portion of a project on or about railroad property, a railroad policy or policies in favor of the railroad that covers damages arising out of injury to or destruction of railroad property. The Contractor may not start work on that portion of the project until after the railroad company approves these policies. Modifications may be made during the time work is progressing.

A reliable insurer authorized to do business in the State of Idaho shall issue each policy.

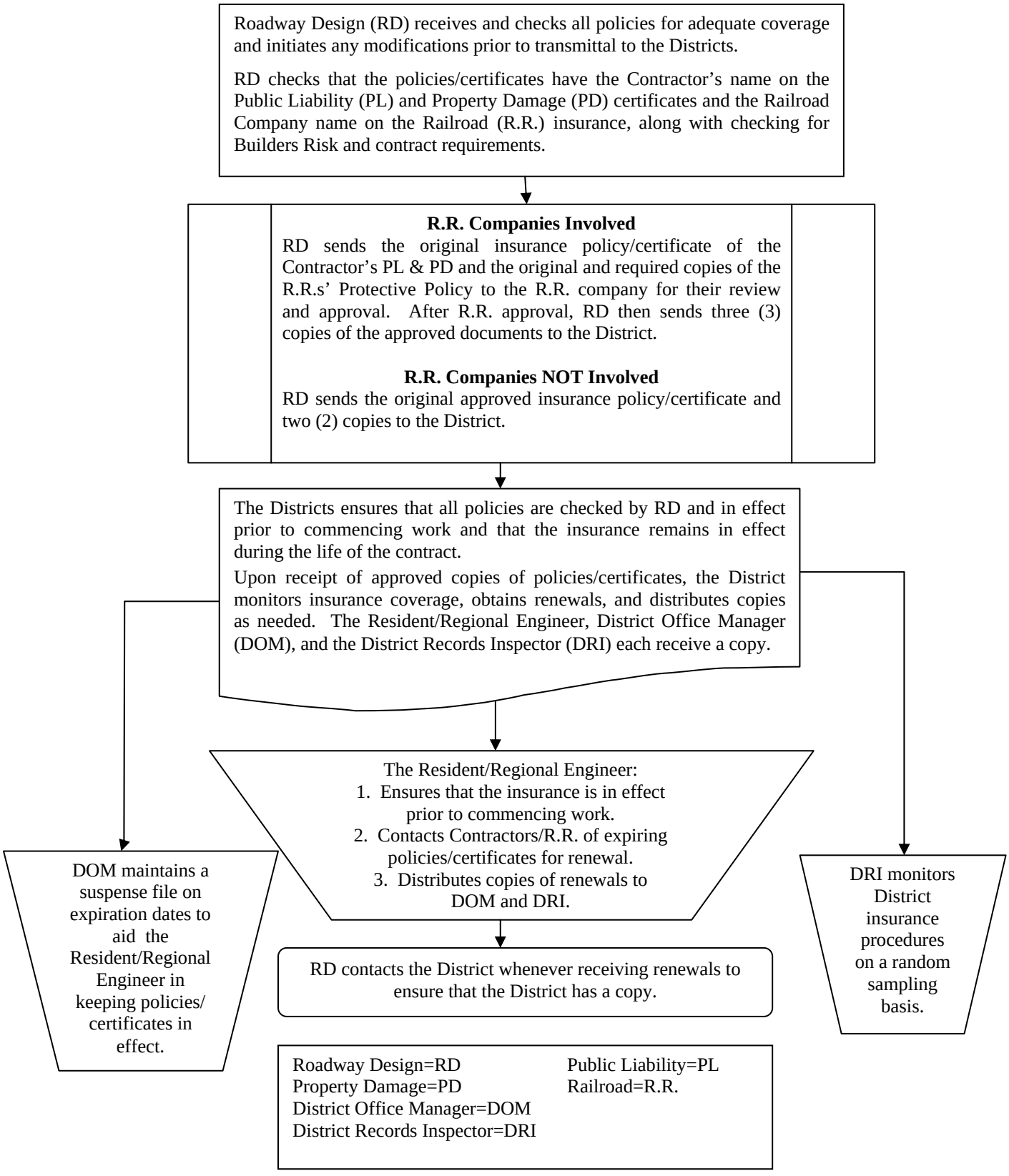
a. Prior to the commencement of work on or about railroad property, the Contractor will obtain and furnish an acceptable railroad protective liability policy to Roadway Design. Roadways Design will forward the information to the railroad for approval. Approval may be in some cases by certificate pending issuance of policies.

b. After approval by the railroad, one certified copy will be sent to the District to be filed in the project file as part of the contract documents.

c. An extension of the policy is handled the same as a new policy. Questions on railroad protective liability should be referred to the Roadway Design section.

HANDLING INSURANCE REQUIREMENTS ON PROJECTS

The following chart is intended to provide guidelines for processing and monitoring contract-required insurance policies.



Obtaining Motor Vehicle Accident Information

Prior to beginning any work on a roadway project, the Resident/Regional Engineer should write a letter to the Idaho State Police and local law enforcement agencies requesting timely information on any vehicular accidents that have occurred or may occur in the project area. This information is necessary for the following reasons:

a. Accident information may reveal a problem associated with safety of the roadway or current traffic control that would otherwise go undetected.

b. Accident information will be needed for the final traffic control report. (See Section 626.)

c. The department is obligated by FHWA order to provide immediate information on any vehicular accident on construction projects that result in incapacitating injuries or fatalities. The Resident/Regional Engineer shall call this accident information in to the Construction section as soon as possible following any accident that results in death or injuries severe enough that the victims need assistance to leave the accident scene (Class A injuries). Accident information that is required for the telephone contact shall be the number of deaths, number of injuries (Class A), number of vehicles involved, date, time of day, and location. The Construction section will then forward this information to the appropriate FHWA representative.

Police investigated accidents and minor accidents that are not police investigated should be recorded whenever available as Motor Vehicle Accident Information.

Documenting Motor Vehicle Accident Information

Occasionally, state employees witness or come upon motor vehicle accidents that occur on the state highway system, or vehicle accidents sometimes occur within the limits of a construction or maintenance project involving persons other than employees of the state or its contracting agencies.

Motor Vehicle Accident Documentation

Whenever an ITD employee witnesses or comes upon a motor vehicle accident, a record shall be made in their diary of the date, time, highway route, and milepost. The weather condition, general condition of the travel way, and a short narrative description of how the accident happened should be included. Any assistance rendered by the employee to the accident victim such as first aid, calling of police, ambulance, etc., should be recorded. Brief sketches may be desirable to help explain the accident and can be made and attached to the diary entry page. A copy of the information shall be sent to the District EEO/Safety/Training Coordinator.

Additionally,

a. When an accident occurs on a construction or maintenance project and damage is **minor** with no injuries, the accident should be reported on an ITD-1746, Tort Claim Data Form.

b. If the accident is of a **serious** nature (considerable property damage, injury, or fatality), then the report shall be made on ITD-645, Traffic Accident Field Report. Sketches, diagrams, and photographs should show the general layout of the accident scene, location and distance of traffic control devices, and any other data relevant to the accident.

c. Accidents that occur on a project, but are **not witnessed,** also require that all known facts and data be recorded as a diary entry.

The supervisor in charge of the project or highway should review the reports and ensure that the accident is properly documented and made a permanent part of the project records or diary. The appropriate Contractor's personnel shall be notified. When an accident occurs on a state forces project, the appropriate District Engineer and District EEO/Safety/Training Coordinator shall be notified.

The District EEO/Safety/Training Coordinator will send copies of all reports, photos, and diagrams of accidents to the department's Employee Safety/Risk Manager for information and coordination with the appropriate headquarters' section.

107.17 ENVIRONMENTAL PROTECTION

The rules and regulations for the control of air pollution, stream and wetland protection, and storm water runoff must be complied with in accordance with ITD Highway Specifications Section 107. The Resident/Regional Engineer shall ensure compliance with the regulations. The District, headquarters Construction section, and other agencies should be consulted for assistance on compliance problems.

Project Files

The Resident/Regional Engineer will maintain a file in the project files labeled Environmental File. This file should include copies of the approved SWPPP with updates or Erosion and Sediment Control Plan with updates, ITD-2802 Environmental Monitoring Reports, 3rd Party Inspection Reports when applicable, correspondence with Resource Agencies on project issues, permit modifications, and any other relevant environmental information that is not already published in the Contract provisions.

Coordination with District Environmental Planner

Prior to the start of construction on a project, the project Environmental Inspector shall meet with the District Environmental Planner to identify all environmental commitments associated with the project and include them on the ITD-2802 Environmental Monitoring Report.

At the completion of the project, the project Environmental Inspector and the District Environmental Planner will review the project to ensure that all environmental commitments have been completed and are identified on the ITD-2802 as being completed. The Environmental Inspector will complete a written report to be sent to the District Environmental Planner identifying all actions completed regarding environmental commitments. The final ITD-2802 will be attached to the report.

Air Pollution - Potential Problem Areas

- No hot plant or rock crusher shall be allowed to operate without a permit from the Idaho Division of Environmental Quality (DEQ). Additionally, any hot plant manufactured or modified after June 11, 1973 shall comply with all applicable federal new source performance standards (40 CFR 60).
- No hot mix plant shall be allowed to operate that is not equipped with an efficient fugitive dust control system. The control system shall be operated and maintained in such a manner as to satisfactorily control dust emissions from any point other than the hot mix plant stack.
- The hot plant shall not be allowed to start up or operate without equipment capable of complying with DEQ regulations.
- Dust at the hot plant premises (haul roads, aggregate stockpiles, transfer points, aprons, etc.) must be contained by water spraying or other satisfactory means and shall comply with DEQ requirements for the control of fugitive dust.
- The open burning of materials may only be conducted in accordance with DEQ regulations. When burning creates air pollution or a public nuisance, additional restrictions may be imposed to minimize the effect upon the environment.
- All hot plant and rock crushing equipment shall be registered with DEQ at least ten (10) days prior to relocation, using forms available from DEQ.
- All reasonable precautions shall be taken to prevent dust from becoming airborne. Dust is usually controlled by spraying water on material traveling on crusher conveyor belts, material stored in aggregate stockpiles, around the plant site, and to and from the plant site. Dust control measures must comply with DEQ requirements for the control of fugitive dust.

Underground Containers

Underground storage containers (UST) encountered during construction that are not indicated for removal under the contract are not to be excavated, opened, or removed without written approval. Upon the discovery of a previously unidentified UST, the Resident/Regional Engineer will notify the appropriate District personnel as determined by the District Engineer. The discovery of the UST and notification is to get the District Environmental Planner and the UST Coordinator involved as soon as possible to allow proper testing, permit applications, and removal in accordance with the law and to minimize the delay of project construction.

The District Engineer, through the Environmental Planner, will notify the headquarters Environmental section and the Division of Environmental Quality (DEQ) field office. The UST Coordinator will notify the Maintenance Engineer and the local fire department that has jurisdiction.

DO NOT ATTEMPT TO OPEN OR REMOVE THE CONTAINER of any newly discovered UST's, drums, or other containers that may have material inside them (liquid or solid). Opening of containers and sampling can be hazardous due to chemical exposure, explosion, or fire potential. Therefore, trained experts will be used to perform this task. District or construction Contractor personnel **will not** do this work.

Departmental guidance contained in the Design Manual, Hazardous Material/Waste Section, requires the removal and rendering unusable of all UST's discovered during construction. UST removal shall be accomplished in accordance with state law, utilizing a professional UST remover. The appropriate agencies (DEQ, fire department, etc.) will be notified and all required permits should be obtained prior to removal.

Department of Water Resources and Corps of Engineers Permits

The Department of Water Resources Stream Alteration Permit is required for construction in perennial streams. A Corps of Engineers 404 CWA Permit is required for the discharge of dredged or fill materials into waters (including wetlands) of the United States. In addition, a 401 Water Quality Certification is required from DEQ on all projects that have a 404 Permit. Most ITD projects will be issued a 404 CWA Permit under one or more of the pre-approved Nationwide 404 Permits, but some large projects will have Individual 404 Permits. In either case, the terms of the permit(s) will dictate acceptable construction practice.

The Resident/Regional Engineer shall select, and obtain the headquarters Environmental Manager's approval, an Environmental Inspector for each highway construction project that requires a 404 CWA Permit. The Environmental Inspector will ensure the Contractor's compliance with environmental laws and report to the Resident/Regional Engineer on any problems related wetlands issues on the project. The Environment Inspector shall report to the Headquarters Environmental Manager if issues are not rectified in accordance with permit requirements.

The 404 CWA Permit, Stream Alteration Permit, and 401 Certification are typically obtained during project development and frequently contain restrictions to the Contractor's operations. Typical restrictions are limitations as to the time of year that construction can occur in the affected waterway, and limitations as to quantities of fill material that can be placed in the waterway. Frequently, the permits are based on one approved method of construction.

If, after contract award, the Contractor elects to use alternative operations that are not covered by the 404 CWA or Stream Alteration Permits, the Contractor must work with ITD, and acquire an amendment to the existing permits or obtain new permits. If the Contractor's operations affect a perennial stream or water of the United States, and the project does not have 404 CWA or Stream Alteration Permits, the Contractor shall be responsible for obtaining the permits. All requests for permit amendments and new permit applications must be submitted to the Corps of Engineers through ITD. Construction in the waterway cannot begin until permits are issued which fully cover the anticipated operations.

NPDES Construction General Permit

Stormwater runoff from construction activities can have a significant impact on water quality, as it carries sediment and other pollutants exposed at construction sites to surface waters of the United States. The Environmental Protection Agency (EPA) regulates discharges on projects that disturb greater than one acre through the National Pollutant Discharge Elimination System (NPDES). The NPDES is a permit system that authorizes the discharge of pollutants, including sediment in storm water runoff from construction sites, into waters of the United States.

Obtaining a NPDES Permit is necessary for compliance with the federal Clean Water Act (CWA) on projects that meet the minimum criteria. However, all projects are required to

comply with the CWA, so ITD requires an Erosion and Sediment Control Plan on all projects that are not covered under the NPDES.

The Resident/Regional Engineer shall select, and obtain the headquarters Environmental Manager's approval, an Environmental Inspector for each highway construction project that requires a NPDES Permit. The Environmental Inspector will ensure the Contractor's compliance with environmental laws and report to the Resident/Regional Engineer on any problems related to erosion/sediment control issues on the project. The Environment Inspector shall report to the Headquarters Environmental Manager if issues are not rectified in accordance with permit requirements.

Almost all ITD projects requiring a NPDES Permit will be covered under the pre-approved Construction General Permit (CGP). The CGP is a NPDES permit that applies to projects meeting certain criteria in the State of Idaho that ITD administers. A copy of the Construction General Permit may be downloaded from www.epa.gov/npdes/stormwater. The State of Idaho's permit number is IDR100000. When working on Tribal lands in Idaho, the permit number is IDR100001. This permit outlines a set of provisions that must be followed to comply with the requirements of the NPDES storm water regulations.

The EPA Construction General Permit authorizes storm water discharges from:

1) *"Construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the United States or a municipal separate storm sewer system leading to surface waters of the United States;* and

2) *Any other construction activity designated by EPA where EPA makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the Unites States."*

The goal of the permit is to reduce or eliminate storm water pollution from construction activity by requiring the planning, implementation and maintenance of appropriate erosion and sediment control practices to protect water quality.

The NPDES general construction permit applies when a project meets the following two criteria:

1. The area of ground disturbance exceeds one acre (.04 hectares).
2. There is a point discharge to waters of the United States.

The NPDES requires preparation of a Storm Water Pollution Prevention (SWPP) Plan. The Department develops an incomplete Draft SWPPP during project development which is included in the project proposal. SWPPP's are site specific plans showing such items as drainage areas, ground disturbance areas, and erosion and sediment control measures. Once the contract is awarded, the SWPPP is finalized in conjunction with the Contractor to reflect the Contractor's means, methods, operations, and schedule. The Department, the Contractor, and all ground disturbing subcontractors must agree to and sign the SWPPP. The Local Sponsor must also sign the SWPPP on local federal-aid projects.

The SWPPP must cover all of the areas described in the Construction General Permit (CGP), including project specific staging areas, materials sources, waste sites, concrete batch plants, and asphalt hot plants. Only commercial sites, as defined by the CGP, are exempt from the

project NPDES permit. Erosion and sediment control measures are required as needed on all areas covered under the permit and SWPPP.

In addition, in order to obtain coverage under the CGP, the Contractor and the Department must complete and submit separate Notices of Intent (NOI) to the EPA. NOI's can only be submitted after the completed SWPPP is approved by ITD. No ground disturbing activities are allowed until the NOI's are posted on the EPA web site and seven days have elapsed after the latest posting. The Local Sponsor must also submit an NOI on local federal-aid projects. ITD, the Contractor, and any Local Sponsor are considered co-operators under the CGP.

All erosion and sediment control measures and stabilization identified in the SWPPP must be installed and maintained in effective operating condition throughout the duration of the project. Sections 1.5 and Section 1.7 of the Erosion and Sediment Controls manual outlines the Residency/Region's responsibilities during construction for assuring the measures remain effective. Additional requirements for storm water inspection are outlined below.

The contractor is required to post a notice, at the entrance to the construction site, with the following information: the NPDES Permit (usually a full copy of the Construction General Permit), copies of the NOI or permit number, the current SWPPP, name and telephone number of a local contact person, all inspection forms (Form ITD-2802), and a brief description of the project at the project site. These are the official versions, and must be must be publicly accessible. After the Contractor has completed and had accepted all ground disturbing work on the project, including installation of permanent erosion and sediment control measures (such as seeding, planting, rock armoring, etc.) and any punch list items, the Resident/Regional Engineer may authorize the Contractor to submit a Notice of Termination (NOT) to the EPA. The NOT concludes the Contractor's permit, so it must not be filed until all ground disturbing work is complete and accepted. This is often indicated by Final Acceptance of the project. In most cases, the Contractor's NOT should indicate that another operator has assumed control of the site, and not that final stabilization has been achieved.

ITD can not file their NOT until the project meets the NPDES definition of final stabilization (i.e. temporary measures are removed or scheduled for removal, permanent measures are in place, and any vegetated surfaces have achieved a density of at least 70% of native background vegetative cover).

NPDES Permit - Potential Problem Areas

Material Sites, Waste Sites, Staging Areas	Material sites, waste sites, and staging are **not** exempt from NPDES requirements, and **are** covered under the Construction General Permit.
Asphalt plants	Asphalt plants are **not** exempt from NPDES requirements, and **are** covered under the Construction General Permit.
Construction Changes	The SWPPP must be revised if the Contractor's operations change from those upon which the original SWPPP was prepared.
Maintenance	Performance of erosion and sediment control measures devices must be inspected for compliance each week and deficiencies corrected as soon as possible and no later than five days after the inspection or prior to the next rain event, whichever is sooner.
NOI Filing	Ground disturbing construction activities cannot begin until seven calendars after EPA posts the last NOI on their website.

Consent Decrees	The requirements of these agreements are legally binding and must be followed to avoid penalties. The May 2006 Consent Decree between the EPA and ITD stipulates a number of procedures and penalties that must be followed on ITD contracts. The terms of the Decree include stipulated penalties, inspection timeframes, 3rd party inspections, water pollution control managers, and records keeping requirements. The requirements of the Decree have been set forth in a Contractor's Note in all ITD contracts, and herein.

Environmental Inspection Procedures

The following procedures shall apply on all ITD-administered projects with a NPDES Permit, 404 CWA Permit, 401 Certification, or IDWR Stream Alteration Permit. These procedures are encouraged on all projects.

1. Projects shall be inspected by a trained ITD Environmental Inspector and the inspections shall be documented on ITD-2802 Environmental Monitoring Reports
2. Projects with a NPDES Permit shall be inspected in accordance with the terms of the Construction General Permit and the 2006 Consent Decree.
    - The Environmental Inspector shall inspect storm water pollution controls on the project site on a frequent basis, within 24 hours of the end of a storm event of 0.5 inches or greater, at least once every 24 hours during an extended rain event, and in no instance less than once every 7 calendar days during the construction period.
    - The entire project shall be inspected, including **all** erosion and sediment control measures, not just those in the active construction area.
3. Within 24 hours of each storm water inspection, the Contractor shall be made aware of any deficiencies found during the inspection.
4. ITD shall have the Contractor shall sign a form acknowledging they have been informed of the alleged deficiencies (in the event the Contractor refuses to sign ITD shall note that refusal on the form).
5. ITD shall have the Contractor correct all deficiencies identified during environmental inspections as soon as possible and no later than five days after the inspection or prior to the next rain event, whichever is sooner.
6. Inspection reports shall clearly indicate all areas of the site that were inspected, using both descriptions and station numbers (e.g. "entrance at Station 0+00; potential discharge points at Stations, 1+09, and 2+10; ROW and BMPs from Station 0+00 to 3+20").
7. Inspection reports shall clearly indicate the station number associated with each observation (e.g. "silt fences at Station 1+09 holding up well; Sediment pond at Station 1+57 needs to be cleaned out").

107.20 FILING TORT CLAIMS AGAINST THE STATE OF IDAHO

Throughout the term of an active contract, the Contractor's public liability and property damage insurance protect the State. Situations, however, may occur in connection with contracted projects during work suspensions or following partial or final acceptance or wherein no action or negligence on the part of the Contractor is involved which may make the State liable for damage incurred by the public. For example: The State may be liable for a seal coat project following the Contractor's period of maintenance responsibility when a loose chip problem is improperly signed and broken windshields result.

Any problem that may affect the public should be reported immediately to the District Engineer and the Employee Safety/Risk Management section. Staff must be able to advise the public on filing of tort claims against the State.

The proper procedure for filing a claim against the State of Idaho is set forth by Idaho Code 6-905 of the Idaho Tort Claims Act and states that "All claims against the State...shall be presented to and filed with the Secretary of State within 180 days from the date the claim arose or reasonably should have been discovered..." Thus under the Idaho Tort Claims Act, the only office eligible to receive a claim is the Office of the Secretary of State, however, a claimant does have several other manners to make a claim against the State. The following are recommended approaches in handling three (3) of the more common situations:

a) A citizen approaches an agency or employee of the State requesting information on filing a claim against the State of Idaho. The recommended procedure is to advise the claimant of their requirement to file a claim with the Secretary of State giving the details of the claim (as outlined in Idaho Code 6-907) and to submit the claim within the 180 days (as required by Idaho Code 6-905). The District EEO/Safety/Training Coordinators have a supply of the ITD-2326, Citizen's Claim Procedure that can be given to the claimant.

b) A claimant personally presents a written notice of claim to an ITD employee. The written claim should be refused and advice given of the proper procedures for making a claim against the State of Idaho as outlined above.

c) A claim or what could reasonably be interpreted as a claim is received by mail. The recommended procedure is to immediately return the claim to the claimant along with a copy of the ITD-2326, Citizen's Claim Procedure Form or a letter explaining the filing procedure. .

Any claim against the State that is received by ITD must be **immediately returned**. ITD cannot file the claim on the behalf of the claimant.

When notified of an alleged incident, an investigation will be conducted and reported on either the ITD-90, Traffic Accident Field Report, or the ITD-1746, Tort Claim Data for Risk Management and sent to the District EEO/Safety/Training Coordinator. The District EEO/Safety/Training Coordinator will keep a copy and forward the report to the headquarters' Employee Safety/Risk Manager. ***All incidents of possible tort claims must be reported at the time they occur, or external insurance carriers could refuse responsibility for coverage.***

Any questions concerning the filing of tort claims should be referred to the headquarters' Employee Safety/Risk Manager.

107.22 PUBLIC INFORMATION MEETINGS

A number of ITD construction projects, particularly those in urban areas, have a contractual requirement for the Contractor to arrange for periodic public information meetings. The public information meeting is held to keep those impacted by the project appraised of upcoming activities that may affect their access and to receive input from the public that could lessen the effect of construction activities. The public information meetings are a form of "partnering" with the public and have been very effective.

The Public Involvement Coordinator (PIC) has been charged with coordination of all meetings with the public involving the department. The PIC does not need to actually organize, conduct, or even participate in all meetings, but rather be informed of the meetings and assist when requested. The PIC is knowledgeable in effective meeting methods, preparation of news releases, etc., and can address lead-time and other requirements that are necessary for conducting appropriate public meetings.

The Resident/Regional Engineer should notify the PIC of any contracts where public information meetings are involved. The PIC should be invited to preconstruction conferences to discuss and assist in planning the meetings or a separate meeting can be arranged involving the PIC, Resident/Regional Engineer, and the Contractor. The PIC, Resident/Regional Engineer, and Contractor should all strive for a unified approach to properly respond to management or public inquiries concerning the meetings.

Additional guidelines and references for public hearings/meetings are outlined in Administrative Policies A-20-03, Public Hearings, and A-20-04, Public Hearing Officers. The Public Involvement Officer has additional information about the conduct of Public Involvement initiatives.